

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of the Notice of)
HAWAIIAN ELECTRIC COMPANY, INC.)

To Modify its Rule 18, Net Energy)
Metering, and to Make Corresponding)
Changes to its Rule 14H.)
Transmittal No. 05-01.)

In the Matter of the Notice of)
HAWAII ELECTRIC LIGHT COMPANY, INC.)

To Modify its Rule 18, Net Energy)
Metering, and to Make Corresponding)
Changes to its Rule 14H.)
Transmittal No. 05-01H.)

In the Matter of the Notice of)
MAUI ELECTRIC COMPANY, LIMITED)

To Modify its Rule 18, Net Energy)
Metering, and to Make Corresponding)
Changes to its Rule 14H.)
Transmittal No. 05-01M.)

ATTEST: A True Copy
KAREN HIGASHI
Chief Clerk, Public Utilities
Commission, State of Hawaii.

K. Higashi

DOCKET NO. 05-0037

(CONSOLIDATED)

DECISION AND ORDER NO. 22313

Filed March 9, 2006
At 8 o'clock A.M.

Karen Higashi
Chief Clerk of the Commission

DIV. OF CONSUMER ADVOCACY
DEPT. OF COMMERCE AND
CONSUMER AFFAIRS
STATE OF HAWAII

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Docket No. 05-0037
Decision and Order No. 22313
(Consolidated)

DECISION AND ORDER

By this Decision and Order, the commission allows the three (3) transmittals jointly filed by HAWAIIAN ELECTRIC COMPANY, INC. ("HECO"), HAWAII ELECTRIC LIGHT COMPANY, INC. ("HELCO"), and MAUI ELECTRIC COMPANY, LIMITED ("MECO") (collectively, the "Utilities"), on September 12, 2005, as supplemented on February 8, 2006, to take effect from March 10,

2006.¹ The transmittals, submitted in compliance with Decision and Order No. 21877, filed on June 17, 2005, revise the Utilities' respective net energy metering tariff Rule 18 by incorporating certain changes to the Net Energy Metering Law promulgated by Act 104, 2005 Session Laws of Hawaii ("Act 104").²

I.

Background

On July 26, 2001, the Utilities' initial net energy metering tariff Rule 18 ("Rule 18") took effect.³

Thereafter, in 2004, the Hawaii State Legislature enacted Act 99 and Act 98, 2004 Session Laws of Hawaii ("Act 99" and "Act 98"), which amended HRS §§ 269-101 and 36-41, respectively, related to the Net Energy Metering Law and energy retrofit and performance contracts for public facilities.⁴

¹By telephone conversations on February 9 and 10, 2006, commission counsel confirmed with HECO's representative that the Department of Commerce and Consumer Affairs, Division of Consumer Advocacy ("Consumer Advocate") joined in the Utilities' September 12, 2005 filing and in the supplemental amendments incorporated in the Utilities' February 8, 2006 filing. The Utilities and Consumer Advocate are collectively referred to as the "Parties."

²Act 104, 2005 Haw. Sess. Laws 257.

³See Decision and Order No. 21877, filed on June 17, 2005, at 7 - 8.

⁴Act 99 amended HRS § 269-101 by revising the definition of eligible customer-generator to: (1) include government entities; and (2) increase the capacity level of a qualifying eligible customer-generator's facility, from ten (10) to fifty (50) kilowatts ("kW"). Act 99 also amended HRS § 269-111, governing safety and performance standards for eligible customer-generator facilities. Act 99, 2004 Haw. Sess. Laws 392.

In accordance with Act 99 and 98, the Parties filed stipulated revisions to the Utilities' Rule 18 and interconnection tariff Rule 14H, which the commission allowed to take effect, subject to certain conditions, by Decision and Order No. 21877, filed on June 17, 2005.⁵

In Ordering Paragraph No. 8 of Decision and Order No. 21877, the commission stated that it reserved the right to, among other things, modify Rule 18 in accordance with Act 104, which made certain changes to the Net Energy Metering Law effective June 6, 2005. Order Paragraph No. 8 stated:

The commission reserves the right to adjust or modify the Utilities' Rule 18, consistent with the public interest and State law. Of particular note, Rule 18 is subject to review, adjustment, or modification based on: (A) the commission's ruling in its investigation of distributed generation in the State, Docket No. 03-0371; and (B) Act 104. Within sixty (60) days from the date of this Decision and Order, the Utilities shall promptly consult with the Consumer Advocate and file the Parties' proposed tariff changes to Rule 18 with the commission.

Decision and Order No. 21877, at 23 - 24, ¶ 8.

On September 12, 2005, the Parties jointly filed their stipulated revisions to Rule 18, in response to Decision and Order No. 21877.⁶ On February 8, 2006, the Utilities filed

Act 98 amended HRS § 36-41, which governs energy retrofit and performance contracts for public facilities by: (1) including lease-purchase, financing arrangements, and third-party joint ventures as additional financing options for energy performance contracts for public facilities; and (2) adding new terms to the existing guaranteed-savings plan option, fka the shared savings plan. Act 98, 2004 Haw. Sess. Laws 390.

⁵See Decision and Order No. 21877.

⁶Parties' joint letter, exhibits, and proposed revisions to Rule 18, filed on September 12, 2005 ("Parties' Joint Filing").

supplemental amendments in response to the commission's inquiry on the effect of the energy cost adjustment clause on the Parties' Joint Filing.⁷ The Parties' Joint Filing on September 12, 2005, and the Utilities' Joint Filing on February 8, 2006, are collectively referred to as the "Stipulation" or "revised Rule 18." The Utilities seek an effective date of March 10, 2006.

This Decision and Order examines whether the Parties' Stipulation, as a whole, is just and reasonable, pursuant to HRS § 269-16(a) and (b).

II.

Discussion

HRS § 269-16(a) and (b) states in respective part:

Regulation of utility rates; ratemaking procedures. (a) All rates, fares, charges, classifications, schedules, rules, and practices made, charged, or observed by any public utility, or by two or more public utilities jointly, shall be just and reasonable and shall be filed with the public utilities commission. . . .

(b) No rate, fare, charge, classification, schedule, rule, or practice, . . . shall be established, abandoned, modified, or departed from by any public utility, except after thirty days' notice as prescribed in section 269-12(b) to the commission shall be just and reasonable[.]

HRS § 269-16(a) and (b). See also HRS § 269-16.2 (any rules, guidelines, or other standards of a public utility that interpret

⁷Utilities' joint letter, exhibits, and proposed revisions to Rule 18, filed on February 8, 2006 (collectively, "Utilities' Joint Filing"). See also commission's letter, dated December 5, 2005; and Utilities' letter, dated December 12, 2005. The Consumer Advocate agrees with the supplemental amendments incorporated in the Utilities' Joint Filing. See supra note 1.

state laws governing non-utility generators shall be approved by the commission); Hawaii Administrative Rules § 6-61-111 (thirty (30)-day notice filing).

A.

Act 104

On June 6, 2005, Act 104 took effect. Act 104 makes certain changes to the Net Energy Metering Law, codified at HRS chapter 269, part VI. Specifically, Act 104:

A. Authorizes the commission to increase, by rule or order:

1. The maximum capacity of eligible customer-generators to more than fifty (50) kW;⁸ and

2. The total rated generating capacity produced by eligible customer-generators to an amount above 0.5 percent of the electric utility's system peak demand (collectively, "increasing the maximum thresholds");⁹

B. Requires an electric utility to provide eligible customer-generators with a twelve (12)-month reconciliation of the customer's consumption and production of energy (the "twelve (12)-month reconciliation period" or "reconciliation period");¹⁰ and

⁸See HRS §§ 269-101 (definition of "eligible customer-generator") and 269-101.5 (Maximum capacity of eligible customer-generator).

⁹See HRS §§ 269-102 (Standard contract or tariff; rate structure) and 269-104 (Additional customer-generators).

¹⁰See HRS § 269-106 (Billing periods; twelve-month reconciliation).

C. Clarifies the policy for actions taken on credits for excess electricity generated by an eligible customer-generator that remain unused after the twelve (12)-month reconciliation period (the "credit for excess energy").¹¹ Conference Committee Report No. 7, on Senate Bill No. 1003, SD 2, HD 2, CD 1, 2005 House Journal 1732 ("Conference Comm. Rpt. No. 7").

As the Parties explain:

. . . Under Act 104, the Utilities are required to do a 12-month reconciliation of the net electricity provided by the utility with the electricity generated by the eligible customer-generator ("customer-generator") and any unused monetary credits from the customer-generator carried over from prior months since the last 12-month reconciliation period. Act 104 also allows excess electricity generated by the customer-generator in each billing period to be carried over to the next month as a monetary credit within each 12-month period. In addition, Act 104 requires the Utilities to provide in each regular bill net electricity consumption or production information, the monetary balance owed the utility for net electricity consumption, net electricity produced since the end of the last billing period and an accounting of credits for excess electricity produced by the customer-generator since the last 12-month reconciliation.

Parties' Joint Filing, at 1 n.2.

¹¹See HRS §§ 269-105 (Calculation), 269-106 (Billing periods; twelve-month reconciliation), 269-107 (Net electricity consumers), 269-108 (Net electricity producers; excess electricity credits and credit carry over), 269-109 (Net electricity consumption or production information), and 269-110 (Termination by eligible customer-generators).

B.

Revised Rule 18

The Utilities' commission-authorized Rule 18 consists of: (1) the text of Rule 18, including Sections (A) through (E); (2) a standard Net Energy Metering Agreement form (Appendix I, 10 kW or less) (3) a standard Net Energy Metering and Interconnection Agreement form (Appendix II, greater than 10 kW, but no more than 50 kW);¹² and (4) a step-by-step energy metering interconnection overview process (Appendix III).¹³

The Parties represent that the Stipulation: (1) incorporates the twelve (12)-month reconciliation period and credit for excess energy changes to the Net Energy Metering Law mandated by Act 104;¹⁴ (2) incorporates a revision to comply with

¹²In addition to the standard Net Energy Metering and Interconnection Agreement form, Appendix II includes three (3) exhibits: (1) Exhibit A, Description of Generating Facility, a pre-printed form completed by the customer to describe the qualifying facility; (2) Exhibit B, Generating Facility Owned by the Customer-Generator or Third-Party Owner, consisting of certain additional provisions applicable to the qualifying facility; and (3) Exhibit C, Interconnection Facilities Owned by the Company, which describes the provisions that apply when the Utility owns and operates the interconnection facilities.

¹³The commission's extensive discussion of the Utilities' Rule 18, in Decision and Order No. 21877, is incorporated by reference herein. See Decision and Order No. 21877, Section III(A) and (B), at 7 - 13, and Section IV(A), at 14 - 15.

¹⁴This proceeding examines HECO, HELCO, and MECO's proposed revisions to their net energy metering tariff. By contrast, increasing the maximum thresholds is a matter reserved for the commission's future consideration, and is beyond the intended scope of this proceeding. Of further note, the Kauai Island Utility Cooperative is not a party to this docket.

HRS § 269-111;¹⁵ and (3) incorporates non-substantive revisions, including re-formatting. In addition, the Parties explain that the Stipulation:

. . . adjust[s] the calculation of the monetary credit for the customer's net kWh production and adjust[s] the application of the monetary credit to the customer's bill.¹⁶ The calculation of the monetary credit now reflects a full retail credit, including the Energy Charge, plus adjustments

¹⁵HRS § 269-111(b) states:

For systems of ten kilowatts or less, an eligible customer-generator whose solar, wind turbine, biomass, or hydroelectric energy generating system, or whose hybrid system consisting of two or more of these facilities, meets the standards and rules under subsection (a) shall not be required to install additional controls, perform or pay for additional tests, or purchase additional liability insurance.

HRS § 269-111(b).

The Parties seek to revise Appendix III, Section 1(a), governing steps in the interconnection process for eligible generating facilities with a capacity of 10 kW or less, by deleting the "prior to connecting to the Company's system" phrase in Section 1(a). The Parties agree to delete the subject phrase, reasoning that said phrase is: (1) inapplicable to eligible generating facilities with a capacity of 10 kW or less; and (2) inconsistent with HRS § 269-111(b). In addition, "since the start of the net energy metering program, the Utilities have allowed customer-generators to interconnect to the Utilities' systems prior to submitting completed agreements and single-line diagrams." Parties' Joint Filing, at 3.

The Parties' proposed revision to Appendix III, Section 1(a), is made independent of any changes mandated by Act 104.

¹⁶In [the Parties' Joint Filing] dated September 12, 2005, the [HECO Utilities'] monetary credit calculation for a customer's net kWh production was applied to the Energy Charge, exclusive of adjustments applicable to the Energy Charge and adjustments based on kWh consumption.

applicable to the Energy Charge¹⁷ and adjustments based on kWh consumption.¹⁸ Similarly, the monetary credit is applicable to the eligible Energy Charge, plus adjustments applicable to the Energy Charge and adjustments based on kWh consumption on the customer's bill.

Utilities' Joint Filing, at 1 (footnotes and text therein included) (emphasis added).

The Parties also represent that the revised Rule 18, including appendices, is identical for all three (3) Utilities, except for the rate schedules that are unique to each respective utility.¹⁹ In addition, Exhibits A to F attached to the Stipulation provide specific examples of how HECO, HELCO, and MECO will calculate a residential net energy metering customer's

¹⁷Adjustments applicable to the Energy Charge include the Power Factor Adjustment, the Supply Voltage Delivery Adjustment, the [Integrated Resource Planning] Cost Recovery Adjustment, the Temporary Rate Adjustment, Firm Capacity Adjustment and other similar adjustments applicable to the Energy Charge that are in effect.

¹⁸Adjustments based on kWh consumption include the Energy Cost Adjustment, the Residential [Demand-Side Management] Adjustment, the [Commercial & Industrial Demand-Side Management] Adjustment, and other similar adjustments based on kWh consumption that are in effect.

¹⁹Parties' Joint Filing, at 3. For load-factor block energy rates, the Parties state:

With regard to customers served under rate schedules with load-factor block energy rates, the Utilities propose to use the weighted average energy rate of the applicable rate schedule, as determined in the [Utility's] most recent rate case proceeding, for use during the billing period to determine the customers' monetary credit. . . . [T]he use of the weighted average energy rate will simplify the [Utility's] determination and accounting of each customer's billing period(s) monetary credit(s) as only one rate will be in effect per schedule and the rate shall remain constant between rate cases.

Parties' Joint Filing, at 4. See also revised Rule 18(C)(3)(c) and (d).

bill under the revised Rule 18. The Utilities plan to use these exhibits: (1) in an updated version of the *Net Energy Metering in Hawaii* informational packet they presently prepare and distribute to interested customers; and (2) on their websites.

As discussed above, Act 104 seeks to "encourage the expansion of net energy metering as more customers will seek to take advantage of being an eligible customer-generator due to month to month carryover of unused credits for excess customer-generated electricity within a twelve-month period."²⁰ In compliance with Act 104, the Parties' revised Rule 18 is designed to compensate the eligible customer-generator for earned energy credits. Specifically, the Parties propose to: (1) carry-over any unused monthly energy credits for the twelve (12)-month reconciliation period; (2) reconcile the eligible customer-generator's account after the reconciliation period is completed; and (3) refund or credit the customer the monetary value of the eligible energy credits at the end of the reconciliation period. See HRS §§ 269-105, 269-106, 269-107, 269-108, and 269-109; see also HRS § 269-110. Any ineligible, excess credits will expire at the end of the reconciliation period. See HRS § 269-106(b). As explained by the Parties, the calculation of the monetary credit reflects a full retail credit, including the energy charge, plus adjustments applicable to the energy charge and adjustments based on kWh consumption.²¹ The Utilities will also provide the eligible customer-generator

²⁰Conference Comm. Rpt. No. 7.

²¹See Utilities' Joint Filing, at 1.

customer with monthly billing detail, thus allowing the customer to track the net energy used and credits earned during the twelve (12)-month reconciliation period. See HRS § 269-106.

As the Parties' revised Rule 18 provides the details upon which to implement the twelve (12)-month reconciliation period and credit for excess energy changes to the Net Energy Metering Law, as mandated by Act 104, and appears consistent with the overall intent of the Net Energy Metering Law, i.e., encouraging the expansion of net energy metering, the commission finds just and reasonable the Parties' revised Rule 18, including Appendices I, II, and III, and will allow these tariff changes to take effect, effective from March 10, 2006.

III.

Orders

THE COMMISSION ORDERS:

1. The Parties' revised Rule 18 is approved, and will be allowed to take effect from March 10, 2006. Within seven (7) days from the date of this Decision and Order, HECO, HELCO, and MECO shall file their revised tariff sheets, incorporating the Parties' stipulated revisions and appropriate issued and effective dates, with copies served upon the Consumer Advocate.

2. The Utilities shall continue to comply with the applicable conditions and requirements set forth in Decision and Order No. 21877, filed on June 17, 2005, including the timely

filing of an annual report with the commission and Consumer Advocate.

3. The commission reserves the right to adjust or modify the Utilities' revised Rule 18, consistent with the public interest and Hawaii law.

4. The Utilities shall conform to the commission's order set forth in Ordering Paragraphs No. 1 and No. 2, above. The Utilities' failure to adhere to the commission's order constitutes cause for the commission to void this Decision and Order, and may result in further regulatory action as authorized by law.

DONE at Honolulu, Hawaii MAR - 9 2006.

PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

By Carlito P. Caliboso
Carlito P. Caliboso, Chairman

By (EXCUSED)
Wayne H. Kimura, Commissioner

APPROVED AS TO FORM:

Michael Azama
Michael Azama
Commission Counsel

By Janet E. Kawelo
Janet E. Kawelo, Commissioner

05-0037.sl

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 22313 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

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DATED: MAR - 9 2006